

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

AKEMA GOODEN,

For Online Publication Only

Plaintiff,

-against-

MATTHEW MCGEE, and SAMMY SALEH,

Defendants.

X

ORDER

16-CV-5819 (JMA) (AYS)

**FILED
CLERK**

3/7/2019 11:37 am

**U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE**

AZRACK, United States District Judge:

On June 22, 2018, Defendants moved to dismiss this case for failure to prosecute pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. (ECF No. 19.) On December 14, 2018, Magistrate Judge Anne Y. Shields issued a Report and Recommendation (the “R&R”) recommending that Defendants’ motion be granted and that this action be dismissed for failure to prosecute. To date, no objections have been filed and the time for filing such objections has passed. Moreover, the copy of the R&R mailed to the pro se plaintiff was returned as undeliverable, indicating that plaintiff has failed to provide the Court with his current address.

Having conducted a review of the full record and the applicable law, I adopt Judge Shield’s R&R in its entirety as the opinion of the Court.

In reviewing a magistrate judge’s report and recommendation, the Court must “make a de novo determination of those portions of the report or . . . recommendations to which objection[s][are] made.” 28 U.S.C. § 636(b)(1)(C); see also Brown v. Ebert, No. 05-CV-5579, 2006 WL 3851152, at *2 (S.D.N.Y. Dec. 29, 2006). The Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). Those portions of a report and recommendation to which there is no specific

reasoned objection are reviewed for clear error. See Pall Corp. v. Entegris, Inc., 249 F.R.D. 48, 51 (E.D.N.Y. 2008).

I have undertaken a review of the record and the R&R, and finding no clear error, I adopt Judge Shields' R&R and grant Defendants' motion to dismiss. Even under a de novo standard of review, the Court would grant Defendants' motion to dismiss. Additionally, plaintiff's failure to update his address is further reason to dismiss this action for failure to prosecute.

The Clerk of Court is directed to close this case and to mail a copy of this order to plaintiff.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith and, therefore, in forma pauperis status is denied for the purpose of any appeal. See Coppededge v. United States, 369 U.S. 438, 444–45 (1962). The Clerk of Court is directed to mail a copy of this Order to the pro se plaintiff

SO ORDERED.

Dated: March 7, 2019
Central Islip, New York

/s/ (JMA)
JOAN M. AZRACK
UNITED STATES DISTRICT JUDGE